



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0021]

Corrective Action Programs for Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a new regulatory guide (RG) 3.75, “Corrective Action Programs for Fuel Cycle Facilities.” This RG describes programmatic elements that the staff of the NRC considers acceptable when developing corrective action programs for fuel cycle facilities that are licensed under the NRC’s regulations.

ADDRESSES: Please refer to Docket ID **NRC–2014–0021** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC–2014–0021**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public](#)

[Documents](#)” and then select “[Begin Web-based ADAMS Search.](#)” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 0 of RG 3.75 is available in ADAMS under Accession No. ML14139A321. The regulatory analysis may be found in ADAMS under Accession No. ML14139A316.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a new guide in the NRC’s “Regulatory Guide” series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Regulatory Guide 3.75 describes programmatic elements that the staff of the NRC considers acceptable when developing corrective action programs for fuel cycle facilities that are licensed under part 40 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Source Material” or 10 CFR part 70, “Domestic Licensing of Special Nuclear Material” or holders of certificates of compliance or approvals of a compliance plan for gaseous diffusion plants under 10 CFR part 76, “Certification of Gaseous Diffusion Plants.”

II. Additional Information

Regulatory Guide 3.75 was issued with a temporary identification as draft regulatory guide (DG), DG-3044. Draft regulatory guide, DG-3044, was published in the *Federal Register* on February 12, 2014 (79 FR 8511), for a 30-day public comment period. The public comment period closed on March 14, 2014. Public comments on DG-3044 and the staff’s responses to the public comments are available in ADAMS under Accession No. ML14139A318.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This RG describes programmatic elements that the staff considers acceptable for corrective action programs (CAPs) for fuel cycle facilities licensed under 10 CFR parts 40, or 70, and gaseous diffusion plants holding certificates of compliance under 10 CFR part 76. Applicants for such facilities and certificates of compliance, as well as existing licensees and

holders of certificate of compliance, may use the guidance in developing, implementing or revising CAPs. Licensees may choose to develop and implement CAPs that meet the guidance in this RG for the purpose of applying Section 2.3.2 of the NRC Enforcement Policy. The NRC staff may find methods or solutions that differ from those described in this RG acceptable for the purpose of applying Section 2.3.2 of the NRC Enforcement Policy if those methods or solutions effectively implement controls to identify, document, and correct conditions adverse to safety and security.

Applicants for, and holders of fuel cycle licenses under part 40 are not subject to backfitting protection, inasmuch as the NRC's regulations do not provide backfitting protection to part 40 applicants or licensees.

This RG does not constitute backfitting for any fuel cycle facility applicants or licensees subject to backfitting protection under part 70, or applicants for or holders of certificates of compliance for gaseous diffusion plants under part 76. No part 70 licensee or holder of a part 76 certificates of compliance is required to comply with the guidance, and a licensee or holder of a certificate of compliance is free to demonstrate that its corrective action program is effective in identifying, documenting, and correcting conditions adverse to safety and security in order to be within the purview of Section 2.3.2 of the NRC Enforcement Policy. With respect to applicants or potential applicants for part 70 licenses and part 76 certificates of compliance, such entities are not protected by the backfitting provisions in parts 70 and 76. Backfitting is intended to protect the reasonable expectations of certain entities who have received NRC regulatory approvals (e.g., a license), and was not intended to apply to NRC actions which substantially change the expectations of current and future applicants.

This RG does not apply to any nuclear power reactors subject to 10 CFR parts 50 or 52. Therefore, backfitting considerations under 10 CFR 50.109 or issue finality considerations under 10 CFR part 52 are not applicable to this RG.

Dated at Rockville, Maryland, this 9 day of July, 2014.

For the Nuclear Regulatory Commission.

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